

OCT 17 2006

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DATE: October 17, 2006

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TO: Examiner Anuradha Ramana
COMPANY: Group Art Unit 3733FAX NUMBER: 571-273-8300
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RE: Response to Office Action for U.S. Patent Application No. 10/603,471 to Larry Gause, et al.

COMMENTS: I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 571-273-8300 on:

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OCT 17 2006

TRANSMITTAL FORM		U.S. Patent and Trademark Office (USPTO) Form 10/603,471	
Applicant Number: 10/603,471		Filing Date: June 25, 2003	
Inventor Name: LARRY GAUSE, ET AL.		AR Unit: 3733	
Examiner Name: AURADHA RAMANA		Attorney Name: Douglas A. Collier	
Total Number of Pages in this Submission: 17		Attorney's Address: 1000 N. 10TH STREET, SUITE 100, ALEXANDRIA, VA 22314-1450	

ENCLOSURES (Check all that apply)		After Allowance Communication to TO	
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Signature: <i>Douglas A. Collier</i>	
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Typed or printed name: Douglas A. Collier	Date: October 17, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of
Larry Gause et al.
Application Serial No. 10/603,471
Filed June 25, 2003
SYSTEM FOR STABILIZING A PORTION
OF THE SPINE

Before the Examiner
Auradha Ramana.
Group Art Unit 3733
Ref. No.: MSDI-259/
PC757.00
October 17, 2006

RESPONSE TO FIRST OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the non-final Office Action dated July 20, 2006, please enter and consider the following. No fees or extensions of time are believed due for consideration of this response. Please provide any extensions of time necessary and charge any fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 571-273-5200 on:	
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Response to Office Action
Application Serial No. 10/603,471
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and 59-62 were rejected. In this response, claims 39-58 and 63-80 have been cancelled without prejudice to pursuit in a divisional application. Claims 1, 12, 13, 20, 28, 29, 30, 36, 38, 59 and 61 have been amended, and claim 81-93 have been added. Reconsideration of the present application as amended and including claims 1-38, 59-62 and 81-93 in view of the remarks that follow is respectfully requested.

Claim 38 was objected to and it was indicated that it appears it should depend from claim 36 rather than claim 26. Claim 38 has been amended to depend from claim 36 and also to insert a period after the claim number. Withdrawal of the objection to claim 38 is respectfully requested.

Claims 1-18, 20-22, 28-33, and 59-61 were rejected under 35 USC §102(e) as being anticipated by U.S. Patent No. 6,793,658 to LeMueco et al. LeMueco et al. disclose a plate with window 627 defined in part by an upper end wall adjacent upper nose 620a. The upper end wall has a convex curvature along the window and across the longitudinal axis of the plate. Amended claim 1 recites "an elongate plate including a length extending along a longitudinal axis adapted to span a space between adjacent vertebrae, said plate including a first connection portion attachable to a first one of the adjacent vertebrae and a second connection portion attachable to a second one of the adjacent vertebrae, and an intermediate portion extending between said first and second connection portions, said intermediate portion including a visualization opening extending therethrough for visualizing at least one convexly curved side wall extending along the longitudinal axis and opposite end walls on opposite ends of said visualization opening extending across the longitudinal axis, each of said end walls including a concave shape extending across the longitudinal axis." Accordingly, claim 1 distinguishes LeMueco et al. and withdrawal of the rejection of claim 1 is respectfully requested.

Claims 2-18 depend from claim 1 and are allowable at least for the reasons claim 1 is allowable. Withdrawal of this basis of the rejection of these claims is respectfully requested.

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